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**Fax****To:** Examiner Mark Ruthkosky **From:** Gordon K. Harris, Jr., Reg. No. 28,615**Fax:** (571) 273-8300 **Pages:** 5 + cover**Phone:** (571) 272-1291 **Date:** January 22, 2008**Group Art Unit:** 1795**Re:** Application No. 10/622,165

Attached is a Reply Brief.

*I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on January 22, 2008.*

Susan J. Sidwell

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/622,165  
Filing Date: July 17, 2003  
Applicant: ROLF SCHALLER, *et al.*  
Group Art Unit: 1795  
Examiner: Mark Ruthkosky  
Title: THERMAL-INTEGRATION OF PRESSURIZED FUEL  
CELL SYSTEMS WITH EXPANDER  
Attorney Docket: 706634US1

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

REPLY BRIEF

Sir:

This is in reply to the Examiner's answer mailed on November 23, 2007.

I. STATUS OF CLAIMS

Claims 1-5 stand rejected and are the subject of this Appeal.

## II. GROUNDS OF REJECTION TO BE REVIEWED ON APEAL

The grounds for rejection to be reviewed are:

- 1) Rejection of claims 1-5 under 35 U.S.C. §112, first paragraph, for non-enablement.
- 2) Anticipation of claims 1-4 under 35 U.S.C. §102(e) by Xu, U.S. Patent No. 6,551,732.
- 3) Anticipation of claims 1-5 under 35 U.S.C. §102(e) by Cownden et al., U.S. Patent No. 6,316,134.
- 4) Unpatentability of claim 5 under 35 U.S.C. §103(a) over Xu, U.S. Patent No. 6,551,732 in view of Cownden et al., U.S. Patent No. 6,316,134.

### III. ARGUMENT

#### Re Rejection Under 35 U.S.C. §112, First Paragraph

The Examiner has failed to meet his initial burden of presenting evidence or reasoning to explain why persons skilled in the art would not recognize in the original disclosure a description of the invention defined by the claims. See Wertheim, 541 F.2d at 263, 191 USPQ at 97. Indeed, the Examiner's refusal to acknowledge passages cited by Applicants as, at least, inherent support for the claims is tantamount to assigning an unreasonably low level of skill ordinarily held by those of ordinary skill in the fuel cell or heat transfer arts. There is no in haec verba requirement that the specification precisely match the language used in the claims. See MPEP §2163 I. B., revision 6, September, 2007.

#### Re Rejections Under 35 U.S.C. §102

The Examiner has merely repeated his final rejection without effectively rebutting Applicants' positions. The art of record simply does not teach or suggest taking waste heat from the housing of a fuel cell and transferring the waste heat energy to the cathode exhaust flow via a heat exchanger coupled between the fuel cell housing and the cathode exhaust gas line.

#### Rejection Under 35 U.S.C. §103

Again, without acceding to the correctness of the Examiner's remarks thereover, claim 5 depends directly from claim 1 and is therefore believed to be in condition for allowance for at least the reasons set forth previously during the briefing of this case with respect to claim 1.

CONCLUSION

The Examiner has failed to establish prima facie cases of non-enablement, anticipation and obviousness. The Examiner's rejections of claims 1-5 should be reversed.

Respectfully submitted,

Dated: January 22, 2008

By: 

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